



Washington State Department of Agriculture ➔ Endangered Species Program Newsletter

State-Initiated Plan submitted to EPA

On March 3, WSDA presented the state-initiated plan, "Washington State Endangered Species Protection Plan for Pesticide Use," to EPA for approval. EPA must be assured that the plan is at least as protective as their proposed national endangered species protection strategy.

WSDA anticipates that EPA will approve the Washington state-initiated plan.

The Washington state-initiated plan formalizes the current process between WSDA and EPA for the use of state-specific data to make ecological risk assessments and/or ESA effects determinations.

EPA and NOAA Fisheries are required under the ESA to evaluate the effects of pesticides on endangered species. State-specific pesticide use information provides them with data that reflects typical pesticide use in Washington state rather than estimates that may not reflect real world practices.

The plan also establishes a procedure for WSDA and EPA to collaborate in the development of pesticide use mitigation, if needed, to protect threatened and endangered species. It is WSDA's intent that the mitigation be crafted to not only protect threatened and endangered species but to also retain the pesticide's use whenever possible.

To read the Washington state-initiated plan and review Frequently Asked Questions about the Washington State-Initiated Plan, go to the Endangered Species Program web page at agr.wa.gov/PestFert/EnvResources/WaStateInitPlan.htm ➔

ESA litigation update

The appeal of the July 2002 decision in Washington Toxics Coalition (WTC), et al, v. EPA is still under review by the U.S. Court of Appeals for the Ninth Circuit. Unless the court overturns the ruling that created no-spray buffers, the buffers will remain in effect until EPA and NOAA Fisheries complete the consultation process required for the pesticides that EPA has determined have a potential impact on salmonids.

However, Earthjustice recently petitioned the U.S. District Court for the Western District of Washington to revise the July 2002 order while it is under appeal.

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QUESTIONS?

For more information about the Endangered Species Program, visit our Web site at agr.wa.gov/PestFert/EnvResources/EndangSpecies.htm

We welcome your input. Please send your comments and questions to the WSDA Endangered Species Program at esp@agr.wa.gov

ESA litigation update

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The requested revision has the potential to put buffers back in place for all 55 pesticides subject to the July 2002 order. Washington Toxics Coalition is asking the court to require EPA re-do the effects determinations and initiate consultations, as appropriate, alleging that the effects determinations EPA has made to date use deficient scientific information and risk assessment methods and, therefore, fail to comply with the July 2002 order.

In a separate lawsuit filed in the U.S. District Court this fall, Earthjustice challenged the newly enacted federal counterpart regulations for pesticide consultations.

Earthjustice alleges the counterpart regulations violate Section 7 of the ESA and are “arbitrary, capricious, and contrary to the best available scientific information.” Under the litigation schedule, it may be late summer 2005 before the case is heard by presiding Judge John Coughenour.

Earthjustice is the law firm representing the Washington Toxics Coalition and other environmental and fishing groups in these lawsuits.

The Endangered Species Program has posted information about the **July 2002 court order** and the **counterpart regulations** on the Internet at agr.wa.gov/PestFert/EnvResources/EndangSpecies.htm ➔

Fish Facts: Evolution solution

Pacific salmon were evolving into the species we know today during the Pleistocene Age, a time when today’s watersheds and river systems were forming and saber-toothed tigers and mastodons roamed the landscape.

Then a period of intense glacial activity – a cycle of advancing and retreating glaciers – began covering the land with ice and changing where rivers flowed.

To survive in this changing environment, Pacific salmon took refuge in areas not covered by ice or affected by unstable rivers and coastlines. Each species adjusted its spawning and rearing behaviors to adapt to a developing habitat.

The adjustment resulted in specific spawning and rearing habitats for each species of Pacific salmon:

- ♦ Coho salmon (silver salmon) - small tributaries
- ♦ chum salmon (dog salmon) – lower reaches of rivers and small streams
- ♦ pink salmon (humpback salmon) - lower reaches of rivers
- ♦ steelhead - uppermost tributaries of rivers
- ♦ sockeye salmon (red salmon) - rivers with lakes
- ♦ Chinook salmon (king salmon) – main stem of fast or long, high volume rivers

Not only do Pacific salmon species return to specific habitats to spawn, their entry time into the rivers and streams is also species-specific. ➔



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